



**FILED**

10/18/22

04:59 PM

K2210008

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Appeal of Bandwidth IG, LLC U-7336-C  
from Citation No. CD-2022-09-003 in the  
amount of \$1,000 issued September 27,  
2022, by the Communications Division  
Pursuant to T-17601**

(Leave blank for CPUC use.)

**NOTICE OF APPEAL**

Bandwidth IG, LLC U-7336-C files this Notice of Appeal from Citation No. CD-2022-09-003 in the amount of \$1,000.00 issued on September 27, 2022, by the Communications Division Pursuant to Resolution T-17601.

The rationale for the appeal is as follows: The error in not filing the Affiliate Transaction Report for CY 2021 on behalf of Bandwidth IG, LLC U-7336-C on or before May 1, 2022 was my individual mistake, and not an intentional failure to file. I have now filed the report and certification of its contents today – September 28, 2022. I did receive notifications of an inaccurate filing in mid to late 2021 – which initially stated we failed to file a correct performance bond report. I submitted a new performance bond record with additional detail and notified Mr. Jim Hyden on July 13, 2022 of the same. Unfortunately (and I’m honestly not sure how), I somehow missed Mr. Hyden’s response to my email on July 14, 2022 stating that incorrect information had gone out about what report was missing and it was actually our Affiliate Transaction Report that needed to be filed. Had I seen that email, I would have immediately filed the report (as I did today). I am truly sorry for missing both that notification and the initial due date for filing the report. If there is any other information needed or any other certifications

required with respect to the time that elapsed between May 1, 2022 and the filing today, please let me know. I am happy to provide any additional color or detail that the Commission may require. Unfortunately, I can only blame my own oversight. I will ensure the Company enacts further safeguards in the filing process to avoid any such mistakes in the future. I apologize for the inconvenience this has caused your office.

Dated September 28, 2022, at Boulder, Colorado.

Signature Abbi Dayton  
Name Abbi Dayton  
Title General Counsel  
Mailing Address 530 Lakeside Dr Suite 110, Sunnyvale CA 94085  
Telephone 408-545-9171  
Email abbi.dayton@bandwidthig.com

#### Attachments

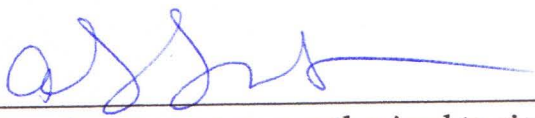
- 1) Emails between [abbi.dayton@bandwidthig.com](mailto:abbi.dayton@bandwidthig.com) and [CDCompliance@cpuc.ca.gov](mailto:CDCompliance@cpuc.ca.gov) and [James.hyden@cpuc.ca.gov](mailto:James.hyden@cpuc.ca.gov) regarding missing filing information in July 2022
- 2) Email to [CDCompliance@cpuc.ca.gov](mailto:CDCompliance@cpuc.ca.gov) from [abbi.dayton@bandwidthig.com](mailto:abbi.dayton@bandwidthig.com) dated 9/28/2022
- 3) CY 2021 Affiliate Transaction Report and Cover Sheet

### **PRIVACY NOTICE**

This message is to inform you that the Docket Office of the California Public Utilities Commission (CPUC) intends to file the above referenced Notice of Appeal electronically instead of in paper form as it was submitted.

Please note: Whether or not your Notice of Appeal is filed in paper form or electronically, Notices of Appeal filed with the CPUC become a public record and may be posted on the CPUC's website. Therefore, any information you provide in the Notice of Appeal, including but not limited to, your name, address, city, state, zip code, telephone number, email address and the rationale for your Notice of Appeal may be available on-line for later public viewing.

Having been so advised, the Undersigned hereby consents to the filing of the referenced Notice of Appeal.

  
Signature (same as person authorized to sign the Notice of Appeal) 9/28/2022  
Date

Name Abbi Dayton

Title General Counsel

Mailing Address 530 Lakeside Dr. Suite 190 Sunnyvale CA 94085

Telephone 406-545-9171

Email abbi.dayton@bandwidthnig.com



**From:** [Hyden, James "Jim"](#)  
**To:** [Abbi Dayton](#)  
**Subject:** RE: [EXTERNAL] RE: U-7336-C--Bandwidth IG, LLC--Notice of Non-Compliance with Annual Filings--IMMEDIATE ACTION REQUIRED  
**Date:** Thursday, July 14, 2022 12:39:28 PM

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Hello Abbi Dayton,

I apologize for the mix-up. Several of our non-compliance reminder emails went out with incorrect info. They specified the wrong past due report. Bandwidth IG was past due with its Affiliate Transaction report, not its Performance Bond filing. Please submit the past due Affiliate Transaction report by July 21, 2022. Forms and instructions for the report are here: [2021 CALENDAR YEAR AFFILIATE TRANSACTION REPORT](#)

Jim Hyden  
Public Utilities Regulatory Analyst  
California Public Utilities Commission  
415-703-3362

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**From:** Abbi Dayton <Abbi.Dayton@bandwidthig.com>  
**Sent:** Wednesday, July 13, 2022 9:13 AM  
**To:** CDCompliance <CDCompliance@cpuc.ca.gov>  
**Subject:** [EXTERNAL] RE: U-7336-C--Bandwidth IG, LLC--Notice of Non-Compliance with Annual Filings--IMMEDIATE ACTION REQUIRED

Hello,

Also attached is the email we sent on April 19, 2022 with the updated information requested in AL-6A.

Thank you,

Abbi Dayton  
General Counsel  
Bandwidth IG, LLC

[abbi.dayton@bandwidthig.com](mailto:abbi.dayton@bandwidthig.com)

Mobile: 406.545.9171

[www.bandwidthig.com](http://www.bandwidthig.com)

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**From:** Abbi Dayton  
**Sent:** Wednesday, July 13, 2022 10:12 AM  
**To:** CDCompliance <[CDCompliance@cpuc.ca.gov](mailto:CDCompliance@cpuc.ca.gov)>  
**Subject:** RE: U-7336-C--Bandwidth IG, LLC--Notice of Non-Compliance with Annual Filings--  
IMMEDIATE ACTION REQUIRED

Hello,

I think your records are in error. We previously submitted our bond filing on March 30, 2022 (see attached email and filing), and also updated by advice letter 6A on April 19, 2022 showing the recurring nature of the bond-- see attached.

Please let me know if you have any questions and kindly confirm you received the above filings.

Thank you,

Abbi Dayton  
General Counsel  
Bandwidth IG, LLC

[abbi.dayton@bandwidthig.com](mailto:abbi.dayton@bandwidthig.com)

Mobile: 406.545.9171

[www.bandwidthig.com](http://www.bandwidthig.com)

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**From:** CDCompliance <[CDCompliance@cpuc.ca.gov](mailto:CDCompliance@cpuc.ca.gov)>  
**Sent:** Friday, July 8, 2022 10:36 AM  
**To:** Abbi Dayton <[Abbi.Dayton@bandwidthig.com](mailto:Abbi.Dayton@bandwidthig.com)>  
**Subject:** U-7336-C--Bandwidth IG, LLC--Notice of Non-Compliance with Annual Filings--IMMEDIATE  
ACTION REQUIRED

**Abbi Dayton**  
**Bandwidth IG, LLC (U-7336-C)**  
**530 Lakeside Dr, Ste 190**  
**Sunnyvale, CA 94085**  
[abbi.dayton@bandwidthig.com](mailto:abbi.dayton@bandwidthig.com)

On [January 7, 2022](#), Communications Division (CD) issued a notice to all Telecommunications Carriers about their annual reporting obligations. As of the date of this email, CD has not received the following annual filing(s) from your company, Bandwidth IG, LLC (U-7336-C):

- Annual Performance Bond Requirement, due March 31, 2022

Please submit digitally the outstanding annual filing(s) identified in this notice **on or before close of business (COB) August 8, 2022**. There is no need to file a hard copy of the filing(s). Please refer to the [January 7, 2022](#) notice for the instructions regarding the filing of the document(s). The CPUC website has more information about telecommunications carrier reporting requirements available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/carrier-reporting-requirements>.

**Failure to comply with the Commission requirement will subject the company to a citation with a penalty amount pursuant to [Resolution T-17601](#).** Failure to comply with the issued citation (i.e., failure to file the required report(s) and payment of the penalty amount) may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions. Additional information about the CD Citation Program is available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/cd-citation-program-for-service-providers>.

If you have already complied with the filing requirement(s) and believe you received this notice in error, please let us know. For any questions, please send an email to [CDCompliance@cpuc.ca.gov](mailto:CDCompliance@cpuc.ca.gov) or call (415) 703-2431.

Thank you for your cooperation.

Licensing and Compliance Program  
Communications Division

**From:** [CDCompliance](#)  
**To:** [Abbi Dayton](#)  
**Subject:** RE: [EXTERNAL] U-7336-C Affiliate Transaction Report (2021)  
**Date:** Wednesday, September 28, 2022 9:55:17 AM

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We have received your filing. We will contact you if we have questions.

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**From:** Abbi Dayton <Abbi.Dayton@bandwidthig.com>  
**Sent:** Wednesday, September 28, 2022 8:50 AM  
**To:** CDCompliance <CDCompliance@cpuc.ca.gov>  
**Subject:** [EXTERNAL] U-7336-C Affiliate Transaction Report (2021)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Please see attached Affiliate Transaction Report for Bandwidth IG, LLC – U- 7336-C. Our sincerest apologies for the delayed filing. Our appeal to the citation for that delay is also being served and sent today.

Again, very sorry.

Thank you,

Abbi Dayton  
General Counsel  
Bandwidth IG, LLC

[abbi.dayton@bandwidthig.com](mailto:abbi.dayton@bandwidthig.com)

Mobile: 406.545.9171

[www.bandwidthig.com](http://www.bandwidthig.com)

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## California Public Utilities Commission CD Compliance and Report Filing Cover Sheet

Please complete this cover sheet and include in your CD compliance filings and reports submitted to [CDcompliance@cpuc.ca.gov](mailto:CDcompliance@cpuc.ca.gov). NO hard copies needed. DO NOT use this cover sheet for Advice Letter filings.

Utility Number U - 7336 - c

Filing Date: 9/28/2022

Utility Name: Bandwidth IG, LLC

Mailing Address: 530 Lakeside Drive Suite 190, Sunnyvale, CA 94085  
(Street Address, City, State, Zip Code)

\*Report Name: Affiliate Transaction Report

☒ Original ☐ Revision to Previous Filing; Date of Previous Filing:

Number of Pages: 2

Document Submission Frequency: ☒ Annual ☐ Quarterly ☐ Monthly ☐ Other

\*\*Authority for Filing (Decision/Resolution/General Order #/etc.): R.92-08-008

Confidential Treatment requested (if so, please attach declaration of confidentiality): ☐ Yes ☒ No

Name of Filer:

Email Address:

Phone No.:

Abbi Dayton

abbi.dayton@bandwidthig.com

406-545-9171

Notes/Comments:

### Additional Instructions:

#### \*Report Name Format:

Carrier U# + Submittal Frequency + Report Name + Year + Reporting Interval + (COV for Cover Sheet or CONF for Confidential or both or neither)

#### EXAMPLES:

U-xxxx-C Once Compliance with Pub. Util. Code § 708, Employee Identification Cards 201701 COV

U-xxxx-C Quarterly Settlement Report Compliance Report D. xx-xx-xxx COV CONF

U-xxxx-C Once Acceptance of Authority Granted 2017(CPCN, Registration license, WIR) D. xx-xx-xxx COV

U-xxxx-C Once Date of local exchange service offering to public D. xx-xx-xxx 201701 COV

**\*\*All submittals should reference a proceeding, a decision or resolution, if applicable. If not applicable, provide a summary of why the document is being submitted.**

1. Decision Number: (starts with D plus 7 numbers eg. D.xx-xx-xxx)
2. Resolution Number: (starts with Res T plus 5 numbers eg. Res T-xxxxx)
3. Proceeding Number: (starts with R, I, C, A, or P plus 7 numbers eg. R.xx-xx-xxx, etc.)
4. Ordering Paragraph (OP): Number from the decision (eg. OP4)
5. All formal appeals (including citation appeals) start with K (eg. K.xx-xx-xxx)

CD Compliance and Report Filings information: <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/carrier-reporting-requirements>



**Bandwidth IG, LLC Affiliate Transaction  
Report Calendar Year 2021**

Reporting Utility: Bandwidth IG, LLC

Utility Number: U-7336-C

Address: 530 Lakeside Drive,  
Suite 190  
Sunnyvale, CA 94085

**Contact Information:**

Name: Abbi Dayton  
Title: General Counsel  
Address: 530 Lakeside Drive, Suite 190  
Sunnyvale, CA 94085  
Phone: 406-545-9171  
Email: [abbi.dayton@bandwidthig.com](mailto:abbi.dayton@bandwidthig.com)

**AFFILIATE: LAST MILE FIBER, LLC**

Entity Status: Privately held Oregon limited liability company doing business in Oregon

Address: 530 Lakeside Drive, Suite 190, Sunnyvale, CA 94085

Description of Business: Last Mile Fiber, LLC is a wholly owned subsidiary of Bandwidth IG, LLC and sells dark fiber optic network facilities to large enterprises and data centers in the Portland metro area.

Relationship to the Utility: Wholly owned subsidiary

Ownership of the Utility: Bandwidth IG, LLC

Voting rights held by the Utility: 100%

Corporate officers: JamesNolte, CEO  
Mark Elder, CFO  
Abbi Dayton, GC

**AFFILIATE:** **BANDWIDTH INFRASTRUCTURE GROUP HOLDINGS, LLC**

Entity Status: Privately held Delaware limited liability company

Address: 530 Lakeside Drive,  
Suite 190  
Sunnyvale, CA 94085

Description of Business: Bandwidth Infrastructure Group Holdings, LLC is a holding company.

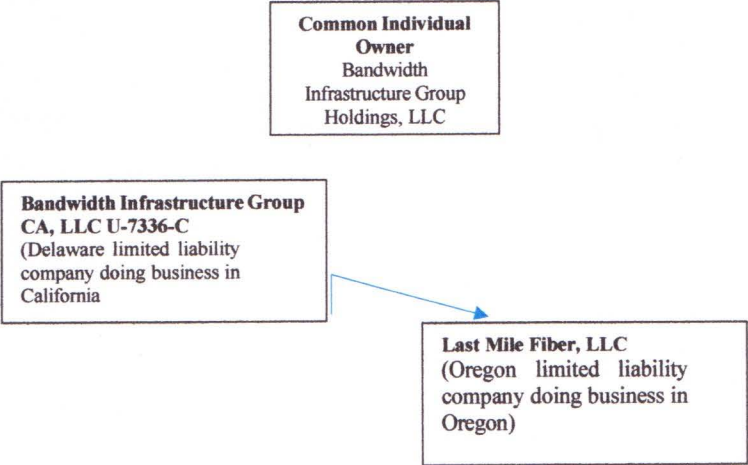
Relationship to the Utility: Sole owner of the Utility

Ownership of the Utility: Yes

Voting rights held by the Utility: None

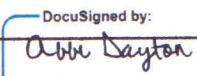
Corporate officers: James Nolte, CEO  
Mark Elder, CFO  
Abbi Dayton, GC

Organization Chart:



**Certification**

*I, Abbi Dayton, in my capacity as General Counsel of Bandwidth IG, LLC, do hereby swear and attest subject to the penalty of perjury under the laws of the State of California (CCP 2015.5), that the foregoing report is complete and accurate with no material omissions.*

By:   
Name: Abbi Dayton

Date September 28, 2022